

DARLENE A. DORNAN, Court Counsel (State Bar No. 182228)
Superior Court of California, County of San Diego
By CHERYL L. BRIERTON, Litigation Attorney (State Bar No. 108242)
220 West Broadway
San Diego, California 92101
Telephone: (619) 531-3036
Facsimile: (619) 685-6606

Attorneys for Defendant, The Honorable David Rubin, Judge of the Superior Court of
California, County of San Diego

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RAYMOND ROBINSON,

Plaintiff,

v.

DAVID RUBIN AND BRIAN
CORNELL,

Defendants.

Case No. 08-CV-0244 DMS (BLM)

DEFENDANT JUDGE RUBIN'S
NOTICE OF MOTION AND MOTION
TO DISMISS THE FIRST AMENDED
COMPLAINT WITH PREJUDICE

**[No Oral Argument Pursuant to Civil
Local Rule 7.1(d.1)]**

Date : July 11, 2008
Time : 1:30 p.m.
Crtrm : 10 (2nd Floor)
Judge : The Hon. Dana M. Sabraw

TO PLAINTIFF RAYMOND ROBINSON IN PRO SE:

PLEASE TAKE NOTICE that on July 11, 2008, at 1:30 p.m., in Courtroom
10, on the Second floor of the United States District Court for the Southern District
of California, located at 940 Front Street, San Diego, California 92101, before the
Honorable Dana M. Sabraw, Defendant The Honorable David Rubin, Judge of the
Superior Court of California, County of San Diego, will move to dismiss Plaintiff's
First Amended Complaint pursuant to Federal Rules of Civil Procedure ("FRCP")
rules 12(b)(1), 12(b)(2), and 12(b)(6), on the following grounds:

1 1. FRCP 12(b)(1) ("lack of jurisdiction over the subject matter")--This
2 Court lacks jurisdiction over the subject matter of this action based upon state
3 sovereign immunity; and the *Rooker-Feldman* abstention doctrine, that a federal
4 court lacks the authority to review a state court decision;

5 2. FRCP 12(b)(2) ("lack of jurisdiction over the person")--This Court lacks
6 jurisdiction over Defendant based upon the principle of sovereign immunity of the
7 State;

8 3. FRCP 12(b)(6) ("failure to state a claim upon which relief can be
9 granted")--The Complaint fails to state a claim for which relief can be granted against
10 the moving Defendant based upon the principle of judicial immunity, and because
11 Plaintiff cannot state a claim for conspiracy.

12 The Motion to Dismiss will be based on this Notice, on the Memorandum of
13 Points and Authorities filed herewith, and on the Request for Judicial Notice of
14 Exhibits A-F (filed herewith), and Declaration of Cheryl L. Brierton (filed herewith),
15 on the pleadings and other papers filed herein and on such argument that may be
16 presented at the hearing hereon.

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18 Respectfully submitted,

19 DARLENE A. DORNAN, Court Counsel
20 Superior Court of California, County of San Diego

21 DATED:

22 May 21, 2008

23 By: s/ Cheryl L. Brierton

24 CHERYL L. BRIERTON, Litigation Attorney
25 Attorney for Defendant, The Honorable David Rubin,
26 Judge of the Superior Court of California, County of
27 San Diego
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